

CITY OF APPLETON PERSONNEL POLICIES	TITLE: GRIEVANCE PROCEDURE	
ISSUE DATE: September 22, 2011	LAST UPDATE:	SECTION: Human Resources
POLICY SOURCE: Human Resources Department August 2018 "No revisions"	AUDIENCE: All employees except Police & Fire represented and Valley Transit represented through 12/31/12.	TOTAL PAGES: 5
Reviewed by Attorney's Office Date: August 2018 "No revisions"	Committee Approval Date: September 12, 2011	Council Approval Date: September 21, 2011

I. PURPOSE

The grievance procedure has been established to provide an organized method by which employees can address employee discipline, employee termination and workplace safety with administration and an impartial hearing officer for the City of Appleton pursuant to Wisconsin Statutes.

II. POLICY

It is the policy of the City to treat employees consistently and fairly in matters affecting their employment that relate to employee discipline, employee termination and workplace safety. Each employee of the City shall be provided an appeal process in which the highest level of appeal is the governing body of the City of Appleton. This policy shall apply to all employees except in those situations where Wisconsin Law or City Ordinance requires a different procedure.

III. DISCUSSION

Any employee having concerns regarding his/her employment shall first discuss the concern with his/her immediate supervisor. If the concern is not settled to the employee's satisfaction, it may be presented as a grievance.

IV. DEFINITIONS

- A. Grievance: A formal notification by an employee regarding a concern about employee discipline, employee termination and workplace safety. Note: Any grievance of harassment or discrimination shall be covered under the City's *Harassment and Discrimination in the Workplace* policy.
- B. Termination: A discharge from employment for rule violations, poor performance or other acts of misconduct.
 - 1. Termination does not include the following:
 - a. Voluntary quit
 - b. Layoff or failure to be recalled from layoff
 - c. Retirement

- d. Job abandonment, "no-call, no-show", or other failure to report to work
 - e. Termination of employment due to medical condition, lack of qualification or license, or other inability to perform job duties
 - f. Workforce reduction activities
 - g. Job transfer or demotion
 - h. Action taken for failure to meet the qualifications of a position
 - i. Death
 - j. End of the employment of a temporary, contract or part-time employee
- C. Discipline: A suspension or demotion for rule violations, poor performance or other acts of misconduct.
- 1. Discipline does not include the following:
 - a. Placement on paid administrative leave pending an internal investigation
 - b. Counseling, meetings or other pre-disciplinary action
 - c. Actions taken to address work performance, including use of a performance improvement plan or job targets
 - d. Demotion, transfer or change in job assignment unrelated to rule violations, poor performance or other acts of misconduct
 - e. Terminations, layoffs or workforce reduction activities
 - f. Performance evaluations or reviews
 - g. Documentation of employee acts and/or omissions in an employment file
 - h. Non-disciplinary wage, benefit or salary adjustments
 - i. Change in assignment or assignment location
 - j. Oral or written reprimands
- D. Workplace Safety Violation: A violation of City Safety Policies, Wisconsin Statutes, and the associated regulations; or federal Occupational Safety and Health Administration laws and regulations on health and safety standards in the workplace as applicable to local government.

V. PROCEDURES

- A. A grievance shall be handled in accordance with the procedure outlined below. Employees must follow all steps in the procedure.

Step One: The employee shall, within ten working days of the incident, or within ten working days of the date he/she would reasonably be expected to have knowledge of the incident, present his/her grievance in writing to his/her immediate supervisor. The supervisor shall, within five working days, from receipt of the grievance arrange to meet and discuss the grievance with the employee and then reply in writing within five working days after the meeting.

Step Two: In the event that the immediate supervisor's decision is not satisfactory to the employee, the employee may, within five working days, present the grievance in writing to his/her department head. The department head shall, within five working days from receipt of grievance, meet and discuss the grievance with the employee and then reply in writing within five working days after the meeting. In the event that the department head is also the immediate supervisor, the written grievance shall be filed with the Human Resources Director and the same time periods for response will apply.

Step Three: In the event that the department head's decision does not satisfy the employee's grievance, the employee may, within five working days, present his/her grievance in writing to the Human Resources Director. The Human Resources Director, in conjunction with the City Attorney's office and the department head or designee, shall arrange a meeting within ten working days of receipt of the grievance with the parties involved to ascertain the facts surrounding the dispute and shall reply in writing to the employee within five working days after the meeting. The final decision will be administered by the Human Resources Director.

Step Four: The Human Resources Director's decision shall be final unless the employee files with the City Clerk, no later than five (5) working days, for a hearing before an impartial hearing examiner. The hearing shall be conducted as soon as practicable and may or may not be transcribed subject to the examiner's discretion. Witnesses may also present information but only in person and written documents may also be submitted, subject to the examiner's discretion. The examiner may request oral or written closing arguments and replies. The examiner shall provide a written decision.

Step Five: The written decision of the impartial hearing examiner shall be reported as information to the Human Resources Committee, and in the case of a library employee, shall also be reported to the Library Board Personnel Committee. The examiner's decision shall be final unless the employee files no later than five (5) working days of the date of the decision issued under Step Four a request with the City Clerk for the decision to be reviewed by the Common Council of the City of Appleton, or in the case of a library employee, reviewed by the Library Board. The Council or Board shall review the matter as soon as practicable and in accordance with its procedures for public participation. A simple majority vote of the Council or Board membership shall decide the appeal and shall be final.

B. Employee Representation

An employee-selected representative may be involved with the employee at any step of the Grievance Procedure. Employees must be present at each step throughout the grievance process or the grievance will not move forward through the steps. If a conflict exists between the employee and their supervisor that has given rise to the grievance, the employee can move the grievance forward to the next step.

C. Falsification or Misrepresentation of Information

Employees are required to cooperate fully. An employee will be subject to disciplinary action up to and including discharge for falsification of information or misrepresentation of any information required or requested as any part of this grievance procedure.

D. Failure to Process Grievances

Failure to process a grievance by the grievant within the time limit, or agreed upon extensions, shall constitute termination of the grievance. Failure of a management representative to meet the time limits shall cause the grievance to move automatically to the next step in the procedure and shall be initiated by the employee. Time limits may be extended by agreement in writing of the parties at any step of the procedure.

E. Selection of Impartial Hearing Examiner

The impartial hearing examiner shall be selected from the staff attorneys of the communities participating in an Intergovernmental Agreement to provide such an impartial examiner. The parties shall randomly draw three names from said attorney pool, and each side shall strike one name. The remaining attorney shall act as the impartial hearing examiner in the matter. If a conflict exists with the selected attorney, that name shall be removed from the pool, and the selection process shall be repeated.

Employee's Name: _____ **Phone Number:** _____

Address: _____ **Job Title:** _____

_____ **Grievance Number:** _____

Date of Occurrence: _____ **Date of Filing:** _____

Violation Alleged: _____

State nature of grievance: _____

Facts of the grievance: _____

Requested Outcome/Remedy: _____

Signature of Employee

Disposition (i.e., Settled, Withdrawn, Processed to Hearing Examiner)